

On October 13, 2006 appellant, then a 51-year-old program support assistant, filed a traumatic injury claim, alleging that she sustained a contusion to her left knee and to her right cheek as a result of a trip and fall while in the performance of duty. She stopped work on

October 17, 2006. The Office accepted appellant's claim for contusion of the left knee and for left knee derangement.

On February 9, 2007 appellant underwent surgery for internal derangement of the left knee performed by Dr. Charles Veurink, a Board-certified orthopedic surgeon, who diagnosed torn medial plica of the left knee and noted performing an arthroscopic debridement. She was off work until February 26, 2007 and received appropriate compensation benefits.

On May 14, 2007 appellant filed a Form CA-7, claim for a schedule award.

By letter dated June 12, 2007, the Office advised appellant that additional medical evidence was needed to support her claim for a schedule award. It requested that appellant submit a report from her physician, utilizing the American Medical Association, *Guides to the Evaluation of Permanent Impairment* 166 (5th ed. 2001). No additional evidence was received.

By decision dated October 30, 2007, the Office denied appellant's claim for a schedule award. It noted that appellant did not submit any medical evidence to support her claim for a schedule award.

On November 5, 2007 appellant's representative requested a telephonic hearing, which was held on February 13, 2008. During the hearing appellant advised the hearing representative that she did not have any medical evidence but was seeking an appointment.

The Office received a March 12, 2008 attending physician's report from Dr. Veurink who diagnosed postinternal derangement of the left knee and checked the box "yes" in response to whether he believed the condition was caused or aggravated by her employment. Dr. Veurink indicated that appellant's pain and popping was worsening and that a new magnetic resonance imaging (MRI) scan was ordered.

By decision dated June 12, 2008, the Office hearing representative affirmed the Office's June 12, 2008 decision.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act¹ sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body.² The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice for all claimants under the law, good administrative practice requires the use of

¹ 5 U.S.C. §§ 8101-8193.

² *Id.* at § 8107.

uniform standards applicable to all claimants.³ The A.M.A., *Guides* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.⁴

ANALYSIS

The evidence of record is insufficient to establish that appellant is entitled to a schedule award in accordance with the fifth edition of the A.M.A., *Guides*.

By letter dated June 12, 2007, the Office advised appellant that additional medical evidence was needed to support her claim for a schedule award. Appellant submitted a March 12, 2008 report from Dr. Veurink; however, his report did not provide any opinion on permanent impairment due to the accepted work injury. For example, Dr. Veurink did not provide any opinion explaining how, pursuant to the fifth edition of the A.M.A., *Guides*, her accepted conditions of contusion of the left knee and left knee derangement caused a permanent impairment to the left leg.

As noted above, the Office evaluates schedule award claims pursuant to the standards set forth in the A.M.A., *Guides*. Appellant has the burden of proof to submit medical evidence supporting that she has permanent impairment of a scheduled member of the body.⁵ As such evidence has not been submitted, appellant has not established entitlement to a schedule award.⁶

CONCLUSION

The Board finds that the Office properly denied appellant's claim for a schedule award.

³ *Ausbon N. Johnson*, 50 ECAB 304, 311 (1999).

⁴ 20 C.F.R. § 10.404.

⁵ *See Annette M. Dent*, 44 ECAB 403 (1993).

⁶ The Board notes that, following the Office's June 12, 2008 decision, appellant submitted additional evidence to the Office. However, the Board may not consider such evidence for the first time on appeal as its review is limited to the evidence that was before the Office at the time of its decision. *See* 20 C.F.R. § 501.2(c).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs' hearing representative dated June 12, 2008 is affirmed.

Issued: April 3, 2009
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board